

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

establish that a medical condition was diagnosed in connection with the accepted employment incident.

By decisions dated September 13, 2019 and September 21, 2020, OWCP denied modification of the June 29, 2018 decision. In both decisions, it referenced a prior claim, OWCP File No. xxxxxx626 that was accepted for unilateral primary osteoarthritis of the left knee, aggravation of unilateral primary osteoarthritis of the right knee, and medial meniscus tear of the left knee.² OWCP indicated that this file remains open and appellant continued to receive treatment including left knee replacement surgery and rehabilitation.

The Board has duly considered the matter and concludes that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.³ For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.⁴ In the present claim, appellant alleged injuries to his knees. OWCP had previously accepted that he sustained unilateral primary osteoarthritis of the left knee, aggravation of unilateral primary osteoarthritis of the right knee, and medial meniscus tear of the left knee under OWCP File No. xxxxxx626. However, it has not administratively combined the present claim with his previously accepted claim pertaining to his knees for which he continues to undergo treatment.

For a full and fair adjudication of appellant's current claim, the case must be returned to OWCP to administratively combine the current case record with OWCP File Nos. xxxxxx068 and xxxxxx626.⁵ Following this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision.⁶

² The Board notes that appellant filed a prior claim in OWCP File No. xxxxxx626 for a traumatic injury sustained on December 11, 2012 when he fell on ice while at work. OWCP granted appellant a schedule award for 50 percent permanent impairment of the left lower extremity and 59 percent permanent impairment of the right lower extremity.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁴ *Id.*; *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

⁵ *Id.*

⁶ *R.G.*, Docket No. 19-1755 (issued July 7, 2020); *L.M.*, *supra* note 4.

IT IS HEREBY ORDERED THAT the September 21, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: September 22, 2021
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board